

RSA No.3551 of 2016 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.3551 of 2016 (O&M)

Date of decision:03.11.2016

Gurbachan Singh

... Appellant

Vs.

Joginder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Satbir Rathore, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, the suit for recovery of ₹4,50,000/- along with principle interest @ 12% per annum, sought to be recovered on the premise, that he had agreed to pay the amount by way of installments as per the agreed terms and conditions of the agreement dated 20.08.2010, has been decreed.

Mr. Satbir Rathore, learned counsel appearing on behalf of the appellant-defendant submits that both the Courts below have abdicated in not referring proved the document Ex.DW2/C as there is another agreement dated 06.06.2011, whereby, the appellant-defendant had agreed to pay lesser amount than sought for. The aforementioned documentary evidence has been ignored on the premise it was not pleaded. Once there was a categorical stand in the written statement regarding the agreement as the pleadings have to be brief and concise, thus, urges this Court for setting aside the

concurrent findings of facts and law as his client is willing to pay the amount as agreed for in the agreement dated 06.06.2011.

I have heard learned counsel for the appellant-defendant and appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the aforementioned submissions of Mr. Rathore as mere exhibition of the document does not dispense with its proof. The alleged witnesses of the agreement relied upon by Mr. Rathore, have not been examined. On the contrary, the agreement dated 20.08.2010 is earlier, whereas, another one is of 06.06.2011, but not proved.

It is a matter of record that the appellant-defendant had paid certain installments of ₹50,000/- as per the evidence on record and also paid last payment of ₹50,000/- on 20.02.2011. I am of the view that the finding is based upon the pre-ponderance of evidence.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the Regular Second Appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 03, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No